

ORIGINAL

Summons in a Civil Action (Rev 11/97)

United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

SHELTER ISLAND YACHTWAYS, LTD., a California
Limited Partnership, dba SHELTER ISLAND BOATYARD

vs

M/Y SUNDANCE, Official No. 521498, A HATTARAS
MOTORYACHT OF APPROXIMATELY 33 FEET IN
LENGTH AND 12 FEET IN BEAM, AND ALL OF
HER ENGINES, TACKLE, ACCESSORIES, EQUIPMENT,
FURNISHINGS AND APPURTENANCES, *in rem*

SUMMONS IN A CIVIL ACTION

Case No. '07 CV 2015 DMS WMC

TO: (Name and Address of Defendant)

YOU ARE HEREBY SUMMONED and required to file with the Clerk of this Court and
serve upon PLAINTIFF'S ATTORNEY

Weiss & Jones
Philip E. Weiss, Esq.
1551 Shelter Island Drive
San Diego, CA 92106

An answer to the complaint which is herewith served upon you, within 20 days after
service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment
by default will be taken against you for the relief demanded in the complaint.

W. Samuel Hamrick, Jr.

CLERK

OCT 17 2007

DATE

By



Deputy Clerk

Summons in a Civil Action

Page 1 of 2

RETURN OF SERVICE

Service of the Summons and Complaint was made by me

DATE 11-8-07

NAME OF SERVER Toni Wheelley

TITLE Deputy U.S. Marshal

Check one box below to indicate appropriate method of service

- ☒ Served personally upon the defendant. Place where served: Defendant Vessel
 at Shelter Island Boatyard
 2330 Shelter Island Drive, San Diego, CA 92106
 Left copies thereof at the defendant's dwelling, house or usual place of abode with a person of suitable age and discretion then residing therein:

Name of person with whom the summons and complaint were left: _____

Return unexecuted:

- ☒ Other (specify): * declaration of service also attached indicating service of summons, complaint and other vessel arrest documents to person plaintiff believes has ownership interest in Defendant vessel.

STATEMENT OF SERVICE FEES

TRAVEL

SERVICES 50.38 TOTAL \$0.00

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service is true and correct.

Executed on:

Date

Please see attached U.S. Marshal's
 Notice of Service - Form 285
 for Deputy Wheelley's signature

Address of Server

U.S. Marshal's Service,
 Civil Seizure Section, 940 Front St., Room B-150, Lower Level, San Diego, CA 92101

NOTICE OF RIGHT TO CONSENT TO TRIAL BY A UNITED STATES MAGISTRATE

IN ACCORDANCE WITH THE PROVISION OF 28 USC 636(C) YOU ARE HEREBY NOTIFIED THAT A U.S. MAGISTRATE OF THIS DISTRICT MAY, UPON CONSENT OF ALL PARTIES, CONDUCT ANY OR ALL PROCEEDINGS, INCLUDING A JURY OR NON-JURY TRIAL, AND ORDER THE ENTRY OF A FINAL JUDGMENT. COUNSEL FOR THE PLAINTIFF HAS RECEIVED A CONSENT FORM.

YOU SHOULD BE AWARE THAT YOUR DECISION TO CONSENT OR NOT CONSENT IS ENTIRELY VOLUNTARY AND SHOULD BE COMMUNICATED SOLELY TO THE CLERK OF COURT. ONLY IF ALL PARTIES CONSENT WILL THE JUDGE OR MAGISTRATE TO WHOM THE CASE HAS BEEN ASSIGNED BE INFORMED OF YOUR DECISION.

JUDGEMENTS OF THE U.S. MAGISTRATES ARE APPEALABLE TO THE U.S. COURT OF APPEALS IN ACCORDANCE WITH THIS STATUTE AND THE FEDERAL RULES OF APPELLATE PROCEDURE.

1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN

See Instructions for "Service of Process by the U.S. Marshal" on the reverse of this form.

PLAINTIFF	Shelter Island Yachtways, a California limited partnership aka Shelter Island Yachtways	COURT CASE NUMBER	07CV 2015 DMS WMC
DEFENDANT	1. SHIPWRECK (CASE NO. 50116) aka Hottaras 2. SHIPWRECK (CASE NO. 50116) aka Hottaras 3. SHIPWRECK (CASE NO. 50116) aka Hottaras	TYPE OF PROCESS TAKEN	USPS Seizure
SERVE	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN		
AT	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code)		
	Shelter Island Boatyard, 2330 Shelter Island Dr, San Diego, CA 92161		

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW:

WEISS & ASSOC
ATTN: Michael Weiss
1551 Shelter Island Drive
San Diego, CA 92161

Number of process to be served with this Form - 285	
Number of parties to be served in this case	
Check for service on U.S.A.	

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available For Service):

PLEASE SEIZE, TAKE INTO CUSTODY and post complaint for arrest documents on the defendant vessel SHIPWRECK (CASE NO. 50116) aka Hottaras (CASE NO. 50116) aka Hottaras, 33 feet in length and 12 feet in beam, which she lies at Shelter Island Boatyard, as instructed by court as soon as possible. Please contact Bill Roberts at Roy Hobbs, mariner, at 619-222-0481, in advance to advise of date and time of seizure. Thank you.

Signature of Attorney or other Originator requesting service on behalf of:

☒ PLAINTIFF
☐ DEFENDANT

TELEPHONE NUMBER

619-225-8884

DATE

12/16/07

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY — DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated. (Sign only first USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
	1	CA	CA	[Signature]	12/16/07

I hereby certify and return that I ☐ have personally served, ☐ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., shown at the address entered below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc., named above (See remarks below).

Name and title of individual served (if not shown above)

Address (complete only if different than shown above)

☐ A person of suitable age and discretion then residing in the defendant's usual place of abode.

Date of Service

Time

12/16/07 12:30 pm

Signature of U.S. Marshal or Deputy

[Signature]

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U.S. Marshal or	Amount of Refund
\$15	5.38		150.38			

REMARKS:

NOTE

WEISS & JONES
Philip E. Weiss, Esq. (No. 152523)
1551 Shelter Island Drive
San Diego, California 92106
Telephone: (619) 225-8884
Facsimile: (619) 225-8801

Attorney for Plaintiff
SHELTER ISLAND YACHTWAYS, LTD,
a California Limited Partnership,
dba SHELTER ISLAND BOATYARD

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

07 CV 2015 DMS WMC

SHELTER ISLAND YACHTWAYS, LTD, a
California Limited Partnership, dba SHELTER
ISLAND BOATYARD,

Plaintiff,

v.

M/Y SUNDANCE, Official No. 521498, A
HATTARAS MOTORYACHT OF
APPROXIMATELY 33 FEET IN LENGTH
AND 12 FEET IN BEAM, AND ALL OF HER
ENGINES, TACKLE, ACCESSORIES,
EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

Defendant.

Case No.

IN ADMIRALTY

DECLARATION OF SERVICE

F.R.C.P. Supplemental Admiralty
Rules C and E.

46 U.S.C. Sections 30101-31343

DECLARATION OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I am employed in San Diego County, State of California. I am over the age of eighteen (18)
and not a party to this action; my business address is 1551 Shelter Island Drive, San Diego,
California 92106. On October 17, 2007, I served the following document(s) described as:

- Summons in a Civil Action
- Civil Cover Sheet

- 1 - **Verified Complaint of Plaintiff Shelter Island Yachtways For Vessel Arrest,**
- 2 **Interlocutory Sale And for Money Damages for: (1) Trespass, (2) Fraud In The**
- 3 **Inducement, (3) Breach Of Implied Maritime Contract, (4) Quantum Meruit**
- 4 - **Ex Parte Application for Order Authorizing Issuance of a Warrant for Arrest of**
- 5 **Defendant Vessel**
- 6 - **Declaration of Philip E. Weiss In Support of Vessel Arrest**
- 7 - **[Proposed] Order Authorizing Arrest of Defendant Vessel Pursuant to**
- 8 **Supplemental Admiralty Rule C**
- 9 - **Application for Appointment of Substitute Custodian and for Authorization for**
- 10 **Movement of Defendant Vessel**
- 11 - **Declaration of Roy Hobbs In Support of Ex Parte Application for Order**
- 12 **Appointing Substitute Custodian**
- 13 - **[Proposed] Order Appointing Substitute Custodian and Authorizing Movement of**
- 14 **Vessel**
- 15 - **Warrant for Action In Rem**
- 16 - **Notice of Vessel Arrest**

17 on the interested parties in Case No. _____ by placing ☐ the original

18 ☒ a true copy thereof enclosed in a sealed envelope addressed as follows:

19 Mr. Wayne Oliver

20 P.O. Box 3179

21 Kerby, OR 97531-3179

22 ☐ **(BY PERSONAL SERVICE):** Personal service accomplished by ☐ attorney service or

23 ☐ _____, employed by Weiss & Jones.

24 ☐ **(BY FACSIMILE AS INDICATED ABOVE):** I caused the foregoing document(s) to be
25 sent via facsimile transmission to the above addressee(s) at the facsimile numbers indicated above.

26 ☒ **(BY MAIL AS INDICATED ABOVE):** As follows: I am "readily familiar" with the firm's
27 practice of collection and processing correspondence for mailing. Under that practice it would be
28 deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at San Diego,

1 California in the ordinary course of business. I am aware that on motion of the party served, service
2 is presumed invalid if postal cancellation date or postage meter date is more than one day after
3 deposit for mailing in affidavit.

4 ☐ (STATE): I declare under penalty of perjury under the laws of the State of California that
5 the foregoing is true and correct.

6 ☒ (FEDERAL): I declare that I am employed in the office of a member of the bar of this court
7 at whose direction the service was made.

8 Dated: October 17, 2007

Tamara A. Geehan

Tamara A. Geehan

9
10 c:\arrest-sdcal-clientsub\proofservice